IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9766 of 2004

Between:

Pallemreddy Sudhakar Reddy, S/o P.V. Krishna Reddy,
Licensee cum Prop. of M/s Sri Sai Baba Wines, Mulumudi Bus Stand, Nellore Town, Nellore District.

..... PETITIONER

AND

1 The Commissioner, Prohibition & Excise, Andhra Pradesh,
Opp: Gandhi Bhavan, Hyderabad.
2 The Prohibition & Excise, Rep. by its Superintendent,
Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari call for the records vide in Proceedings No. 198/203/A2 dated 15-3-2004 and quash the same as illegal, arbitrary and violative of Art. 14, 19(1) (g) and 21 of the Constitution of India and consequently direct the respondents permit the petitioner to shift his wine shop M/s Sri Sai Baba Wines, from Mulumudi Bus Stand, Nellore to Door No. 12/981, Rajendranagar ,Nellore forthwith

Counsel for the Petitioner: MR.T.C.KRISHNAN, Advocate

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in not allowing the petitioner for shifting of his shop, for which he was granted IL-24 Licence to run a retail shop, from Mulumudi Bus stand to D.No.12/981, Rajendra Nagar, Nellore.

2. According to the petitioner, the original shop at Mulumudi Bus stand was affected in view of the proposed fly over and road widening. Therefore, he made an application to the first respondent after paying the necessary fee of Rs.10,000/-. The first respondent, however, rejected the application of the petitioner. Though the said order was not communicated, the subsistence of the order was communicated by the second respondent to the petitioner, as per which, the application of the petitioner was not_considered and rejected on the ground that there are many allegations against him. Questioning the said order, the petitioner has come up with the present writ petition.

3. The learned counsel for the petitioner contended that the respondents failed to consider the application of the petitioner. The petitioner sought for shifting of the licensed premises in view of the proposed fly over by virtue of which the area covered by the shop would be occupied by the fly over and the petitioner would not be in the position to carry on any business. The said fact of non-availability of the existing licensed premises was not considered by the authorities. Therefore, sought to quash the order of the first respondent, which was in turn communicated by the second respondent.

4. A counter-affidavit has been filed on behalf of respondent Nos. 1and 2. In the counter-affidavit, there is no reference to the allegations referred to in the impugned order. But, however, it is stated that there is an injunction order granted by the civil Court prohibiting the Department from establishing any retail wine shop within the limits of Rajendra Nagar town, Nellore. Therefore, the petitioner is not entitled to get an order for shifting his licensed premises to Door No.12/981 of Rajendra Nagar, Nelllore.

5. Heard both sides and considered the material available on record.

6. The claim of the petitioner is that in view of the fact that the existing shop premises is going to be affected by the fly over and road widening, he made an application to the first respondent seeking shifting of his licensed premises to Door No.12/981of Rajendra Nagar, Nellore. The said application was rejected, as per the communication given by the second respondent, in view of certain allegations made against the petitioner. But, however, in the counter-affidavit, the respondents sought to project a different ground, that is, an injunction order granted by the civil Court is existing against the Department, and therefore they are not in a position to grant permission for shifting of the licensed premises from Mulumudi Bus stand to D.No.12/981 of Rajendra Nagar, Nellore. The respondents rejected the application of the petitioner for shifting on the ground that there are allegations, which are not even subsisting in the counter-affidavit. Therefore, the impugned order is liable to be quashed and the same is accordingly quashed. The first respondent is directed to reconsider the application of the petitioner for shifting. However, it is open to the first respondent to take into account the injunction order, if any, prohibiting the establishment of a retail wine shop i.e., IL-24 licensed shop, within any area of Rajendra Nagar, and pass appropriate orders. The first respondent is further directed to dispose of the application afresh expeditiously, preferably within a period of three weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly disposed of with the above directions. No costs.

13.07.2004

Note: Furnish CC in 3 days

B/o

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To

1 The Commissioner, Prohibition & Excise, Andhra Pradesh,
Opp: Gandhi Bhavan, Hyderabad.
2 The Prohibition & Excise, Rep. by its Superintendent,
Nellore, Nellore District.
3 Two CD Copies.